



Town of Southern Shores

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FROM THE DESK OF MAYOR DON SMITH

To the editor,
Coastland Times

September 1, 2009

RE: Southern Shores Dredge Project transforming debt to equity – *Coastland Times*, Sunday August 30, 2009.

Mr. Pollak's letter to the editor appears to have attempted to paint the Town of Southern Shores in an unfavorable light, and I would like to correct some confusion his letter may have created. The Town had great interest in pursuing the use of this property for Phase 1 of its dredging project and went to great lengths to try and make that happen.

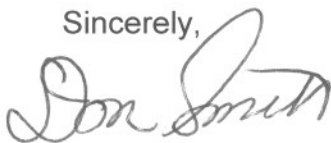
The Town initially negotiated with Republic Properties, the permit holder for the project commonly referred to as the Cove, to use this location as a dredge spoils site. Then, as Mr. Pollak stated, Republic Properties for whatever reason, never purchased the property or proceeded with the project. Subsequently, the Town entered into discussions with Mr. Pollak as the representative for North Outer Banks Associates, LLC (NOBA) the property owners. During these discussions, Mr. Pollak and NOBA's attorneys informed the Town that NOBA was in default on its loan obligation to its lender and at risk of a potential foreclosure. After consultation with the Town Attorney, several options and suggestions were made to Mr. Pollak including that the Mayor and Town Manager would travel to NOBA's bank in Washington, DC to help restructure NOBA's financial package which could have resulted in a three-way win for NOBA, the bank, and the Town of Southern Shores. During the negotiations and discussions with both Republic Properties and NOBA, their representatives took exceptionally long amounts of time to respond to requests for simple things such as a price and failed consistently to provide the Town with assurances from NOBA's lender that it would not foreclose on the property if the Town leased it for dredge spoil disposal. The Town even provided a letter of intent to Mr. Pollak for presentation to NOBA's lender to assist NOBA in obtaining a forbearance agreement from the lender during the period of the Town's dredging project and any associated lease. To-date, no such forbearance agreement has ever been provided to the Town.

The Town also consistently requested NOBA to address, in writing, Republic Properties' interest or lack thereof in developing the property. While the Town was constantly reassured that Republic Properties had no interest in pursuing development of the property or in taking any action that could derail the dredging project, NOBA never obtained written documentation of that fact from Republic Properties. In fact, Republic Properties representatives have recently contacted the Town about developing the property; directly contrary to the assurances which had been provided by NOBA and its representatives. The Town could not afford to get involved with a lease of a piece of property for something as important as its canal dredging project if that property had the specter of litigation looming over it.

The bottom line is that the Town gave NOBA every opportunity to negotiate an agreement that would have been a big savings for the Town and assisted NOBA with some of its financial issues. Unfortunately, time has always been the Town's enemy in getting the Canal Maintenance Dredging Project up and running. Put simply, we must be in this year's dredging cycle to receive our state grant. Here we are at the end of August and Mr. Pollak is writing letters to the editor of the *Coastland Times* rather than providing the Town with an economically feasible agreement and adequate assurances that the dredging project will not be derailed midstream if the property is used. These actions are not inconsistent with the issues the Town faced along the way in negotiating with NOBA over the last six months.

All of these issues, along with a few others, played a role in the Town's consideration of the property. Accordingly, the Town Council unanimously decided to pursue other alternatives for Phase 1. The Town has previously told NOBA's attorney that the property may still be useful for Phase 2 of the dredging project. If Mr. Pollak has a proposal, I am sure the Town Council will gladly consider it.

Sincerely,

A handwritten signature in dark ink, appearing to read "Don Smith". The signature is fluid and cursive, with the first name "Don" being more prominent than the last name "Smith".

Don Smith,
Mayor